



# Arkansas

## State Revenue Tax Quarterly

Mike Huckabee, Governor

Department of Finance & Administration Revenue Division

Richard A. Weiss, Director  
Tim Leathers, Commissioner

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### Sales Tax Increase on New Services Begins July 1, 2004

Act 107 of the 2<sup>nd</sup> Extraordinary Session of 2003 amended current Arkansas sales tax laws and provided that state, city, and county sales taxes will be collected on certain services beginning on July 1, 2004. The new services subject to the sales tax include: wrecker and towing services; collection and disposal of solid waste; cleaning parking lots and gutters; dry cleaning and laundry services; industrial laundry services; mini warehouse and self storage rental services; body piercing, tattooing and electrolysis services; pest control services; security and alarm monitoring services; boat storage and docking fees; furnishing campground spaces or trailer spaces at public or privately owned campgrounds on less than a month to month basis; locksmith services; pet grooming and kennel services; and new installation and replacement labor of hardwood, vinyl, ceramic tile or any other type of flooring.

The sales tax will also apply to initial installation services of the following: motor vehicles, aircraft, farm machinery and implements, motors of all kinds, tires and batteries, boats, electrical appliances and devices, furniture, rugs, flooring, upholstery, household appliances, televisions and radios, jewelry, watches and clocks, engineering instruments, medical and surgical instruments,

machinery of all kinds, bicycles, office machines and equipment, shoes, tin and sheet metal, mechanical tools, and shop equipment. If the item being installed is eligible for an exemption from the sales tax, the installation service for the item will also be exempt.

The sales tax rate to be collected by Arkansas businesses providing these services will include the 6 percent state sales tax plus the local city and county sales tax for the jurisdiction where the service is provided. Act 107 also increased the existing Wholesale Vending Tax from the current 5.5 percent to a new rate of 7 percent beginning on July 1, 2004.

Businesses performing the new taxable services in Arkansas and who are not registered to collect and report the sales tax must register and acquire a sales tax permit prior to July 1, 2004. The Department of Finance and Administration's Sales and Use Tax Section is currently receiving permit applications from affected businesses. A \$50.00 permit application fee must accompany the application form.

Businesses are encouraged to submit their permit applications by May 1, 2004, to allow adequate time for processing. Permit application forms (Form ST-1) can be obtained

from the Sales and Use Tax Section's Internet site at [www.state.ar.us/salestax](http://www.state.ar.us/salestax), from local Revenue Offices, by writing to the Sales and Use Tax Section's office in Little Rock at Sales and Use Tax Section, P.O. Box 1272, Little Rock, Arkansas 72203 or by calling (501) 682-7104.

## 6% Statewide Sales Tax Increase Effective 03/01/04

Reminder: The new 6 percent state sales tax rate became effective on March 1, 2004.



## Streamlined Sales Tax Project

The Streamlined Sales Tax Project ("SSTP") continues to move forward; however, when the streamlined sales tax system will go online and which states will participate is uncertain. The participating states in the SSTP are working towards becoming compliant with the SSTP implementing legislation that each of these states has enacted. The Department of Finance and Administration is currently working with industry representatives, Warren Townsend of Wal-Mart Stores, Inc., and private attorney Michael Parker, to determine its compliance with Arkansas' SSTP implementing legislation (Act 1273 of 2003). The industry representatives met in New Orleans on March 22-23, 2004, to review the status of the participating states' compliance. The states are also working on several important definitions, including "bundled" transactions and tele-

communications systems. The next SSTP meeting will be held in Tampa, FL on May 24-25, 2004.

## All Terrain Vehicles (ATV's) Exempt from Sales Tax or Not?

Gross Receipts Regulation 51 creates an exemption from sales tax for new and used farm machinery and equipment. "Farm machinery and equipment" is defined as agricultural implements used **exclusively and directly for the agricultural production of food or fiber as a business or grass sod**



**or nursery products as a business.** Many taxpayers do not understand that the exemption only applies to those

taxpayers that are engaged in farming as their principal business activity.

The most commonly misused exemption is for All Terrain Vehicles (ATVs).

### Examples of Non-Exempt items would be:

- A machine owned by a business farmer; but used at a location other than the farming property (such as duck club or deer camp)
- A machine purchased by a farmer who produces food or fiber primarily for his own consumption
- A machine purchased by a taxpayer involved in timber farming
- Attachments to and accessories not essential to the operation of the implement itself (except when sold as part of an assembled unit)
- Repair labor and repair parts

**To purchase the machinery exempt from sales tax the purchaser must certify in writing that he is engaged in the business of farming and that the farm machinery and equipment will be used only**

**in farming. The seller then must certify to the Department of Finance and Administration that the contract price of the item(s) has been reduced to grant the full benefit of the exemption.**

For the purchase to be tax-exempt, the taxpayer must certify the machinery will be:

1. Used exclusively on land owned or leased for the purpose of agricultural production of **food or fiber**, AND
2. Used directly in the actual agricultural production of food or fiber to be sold in processed form or otherwise at retail,

OR

1. Used directly in the agricultural production of farm products to be fed to livestock or poultry which is to be sold ultimately in processed form or otherwise at retail.

Violation of this regulation by the Purchaser or the Seller is a misdemeanor. Any taxpayer who wrongfully claims the farm machinery exemption to purchase an ATV will be assessed tax, interest, and penalty by the Department of Finance and Administration.

## **Act 46: Non-compliant Business Owners Beware!**



Beginning July 1, 2004, Act 46 of the 2<sup>nd</sup> Extraordinary Session of 2003 will allow the Department of Finance and Administration to notify a noncompliant taxpayer that his or her business is subject to closure for non-compliance if sales tax reports were not filed (1) for two consecutive months or (2) not filed three times within any consecutive 24-month period. The noncompliant taxpayer will be notified by written notice via certified mail or hand delivery that the business will be closed within five (5) business days from the date of the notice unless the tax delin-

quency is paid. A noncompliant taxpayer can avoid closure of the business by (a) filing all delinquent tax reports and remitting the tax, the accrued penalty, and interest or (b) entering into a payment agreement.

**Administrative Hearing:** Within five (5) business days after the delivery or attempted delivery of the notice, a noncompliant taxpayer may protest the closure of the business and request that an administrative hearing be held in person, by telephone, or by written documents. The administrative hearing will be held within 14 days of receiving the noncompliant taxpayer's request for an administrative hearing. If the hearing officer affirms the closure of the business, the noncompliant taxpayer will receive a written decision.

**Judicial Relief:** The noncompliant taxpayer has the option of filing suit in circuit court of his or her domain or the location of the business within 20 days of the hearing officer's decision. If the circuit court finds that the business closure order was appropriately issued by the director of the Department of Finance and Administration, an injunction will be issued against the noncompliant taxpayer prohibiting further operation of the business. In the event that the business remains open after an injunction was issued, any person responsible for the decision to operate the business shall upon conviction be guilty of a *Class A misdemeanor*.

**Business Closure Procedure:** If the business closure decision is affirmed in all of the above judicial steps, the Department of Finance and Administration will affix a written notice to all entrances of the business stating its closure.



## News and Updates From Revenue Legal Counsel

Revenue Legal Counsel has added three attorneys to its staff in 2004. Jessica McGhee and Kim Godfrey joined Revenue Legal Counsel as staff attorneys in January, and David Alexander joined in March. Jessica came from private practice; Kim and David came from other state agencies. David clerked for Revenue Legal Counsel while attending law school.

On February 19, 2004, the Arkansas Supreme Court issued its opinion in *Weiss v. McFadden*. This was the second appeal in a case filed by federal retirees. The Supreme Court previously held that after-tax contributions to retirement plans are property and are not subject to income tax. The second appeal concerned the refund remedy. The Court held that the voluntary payment rule applies to bar refunds of taxes paid prior to 1999 (the year the lawsuit was filed) and reversed and remanded to the trial court to produce a remedy consistent with the opinion. Additionally, the Court affirmed the trial court's ruling that Act 380 of 1991 is constitutional and does not violate the principle of inter-governmental tax immunity.

The Circuit Court of Pulaski County, Arkansas recently issued its order in favor of the State in *Wayne Smith Trucking, Inc. et al. v. Weiss* and dismissed the case.

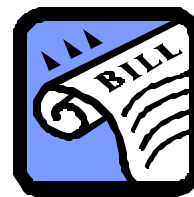
The plaintiffs alleged that the assessment of Arkansas sales tax on trucks that registered in Arkansas, after having previously registered in Oklahoma,



was an illegal exaction. The court disagreed and dismissed the case.

## Tax Amnesty Program

The Tax Amnesty Program (Act 70) was enacted during the 2<sup>nd</sup> Extraordinary Session of 2003 of the Arkansas Legislature. Amnesty is an opportunity for all taxpayers to pay taxes not previously reported that were due and payable before January 1, 2003, without penalty, interest, or criminal prosecution.



The Tax Amnesty Program is available to anyone who has failed to report a tax or who has underreported a tax.

The types of taxes that qualify include: Individual income tax, corporation income tax, sales and use tax, withholding tax, fiduciary tax, estate tax, motor fuel tax, promotion assessments (wheat, rice, soybean, beef, corn & grain, catfish), severance tax, amusement machine tax, waste tire fee, tobacco products tax, cigarette paper tax, alcoholic beverage (beer, liquor, & wine) excise tax, cigarette excise tax, soft drink tax, and vending device tax. This does not include property tax, unemployment tax, insurance premium tax, and franchise tax.

Applications must be submitted between July 1, 2004, and September 30, 2004, with the appropriate tax returns. All delinquent taxes must be paid within three months of applying for amnesty and postmarked on or before **December 31, 2004**.

For more information go to the web page, [www.arkansas.gov/dfa/amnesty.html](http://www.arkansas.gov/dfa/amnesty.html) and review the Frequently Asked Questions (FAQs) or write the Taxpayer Assistance Office, Department of Finance and Administration, P.O. Box 8067, Little Rock, AR 72203-8067, or call 501-682-7751 or 1-800-340-9509.



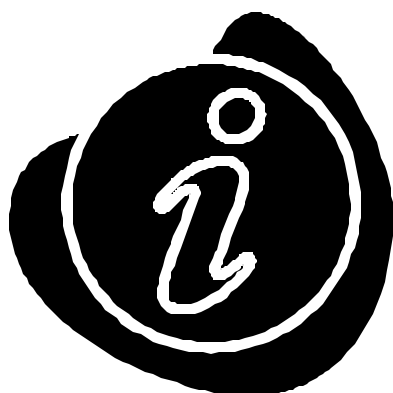
# Calendar of Due Dates

## CHANGES IN SALES & USE TAX

Please Call (501) 682-7104 For Periodic Updates  
Regarding Local Sales and Use Taxes

[www.accessarkansas.org/salestax](http://www.accessarkansas.org/salestax)

Name	Code	Effective Date	%	Recent Action
Charleston	24-05	04/04	1.50	Increased from 0.5%
Elm Springs	72-03	04/04	1.00	Enacted
Magnolia	14-03	04/04	1.00	Increased from .75%
Maumelle	60-06	04/04	1.00	Enacted
Rector	11-02	04/04	1.00	Decreased from 2%



### Internet Information

Business and Personal Tax Page

<http://www.accessarkansas.org/dfa/taxes/index.html>

### Telephone Information

Corporate Income Tax (501) 682-4775

Taxpayer Assistance for Individual Income Tax (501) 682-1100  
1-800-882-9275

Automated Refund Inquiry & Tele-tax Information (501) 682-0200  
1-800-438-1992

Sales and Use Tax 682-1895

Tax Amnesty 501-682-7751  
1-800-340-9509

### IRS (Internal Revenue Service)

<http://www.irs.gov>

1-(800) 829-1040

**04/14/04**—Employee monthly W/H tax, for prior month (EFT filers only); 1<sup>st</sup> Qtr. estimated income tax (Based on calendar year filer) (EFT filers only)

**04/15/04**—Employee monthly W/H tax, for prior month; AR income tax returns (partnership, LLC, individual) (Based on calendar year filers; return due date 3½ months after end of tax year); 1<sup>st</sup> Qtr. estimated income tax (Based on calendar year filer); Miscellaneous tax (except Severance taxes)

**04/20/04**—Sales & Use Tax

**04/26/04**—Motor fuel tax (except IFTA); Severance tax

**04/30/04**—IFTA

**05/14/04**—Employee monthly W/H tax, for prior month (EFT filers only)

**05/17/04**—Employee monthly W/H tax, for prior month; Miscellaneous tax (except Severance taxes)

**05/20/04**—Sales & Use Tax

**05/25/04**—Motor fuel tax (except IFTA); Severance tax

**06/01/04**—Franchise tax

**06/14/04**—Employee monthly W/H tax, for prior month (EFT filers only); 2<sup>nd</sup> Qtr. estimated income tax (Based on calendar year filer) (EFT filers only)

**06/15/04**—Employee monthly W/H tax, for prior month; 2<sup>nd</sup> Qtr. estimated income tax (Based on calendar year filer); Miscellaneous tax (except Severance taxes)

**06/21/04**—Sales & Use Tax

**06/25/04**—Motor fuel tax (except IFTA); Severance tax

**The Arkansas State Revenue Tax Quarterly** is a publication of the Taxpayer Assistance Office. The newsletter is produced and distributed electronically to tax professionals, businesses, and organizations operating in Arkansas. To be added to or deleted from the email list, contact Jan Moore, phone (501) 682-7751, send an e-mail to [jan.moore@rev.state.ar.us](mailto:jan.moore@rev.state.ar.us), or write to P. O. Box 1272, Ledbetter Building, Room 2460, Little Rock, Arkansas 72203-1272.